

EXHIBIT A

From: Josh Budwin
Sent: Wednesday, October 08, 2014 5:35 PM
To: Barr, John; Geiger, Tim; Shield, Chris; Tom Fasone III
Cc: Droplets III Web Retailers; Bradford, Angela
Subject: RE: Droplets III: Outstanding 30(b)(6) Depositions of Sears and Overstock

John/Tim -

Given the recent (and substantial) Sears production (which was delayed by the corrupt hard drive), our need to review that production, and the ongoing expert depositions, can you please offer alternative dates for the Sears Rule 30(b)(6) witnesses (Meenakshi Nair and Matt Lifka) that work for the their schedules and yours? Are they available the week of 10/20? Please let us know.

Additionally, and consistent with John's representation that the Sears Rule 30(b)(6) witnesses (Meenakshi Nair and Matt Lifka) are being offered for "a limited purpose pursuant to your request" and are not being offered for deposition in their individual capacities pursuant to Rule 30(b)(1), we will agree to take their Rule 30(b)(6) depositions, subject to our objections. As I noted previously, we will object to any attempt by you to call either of these individuals to testify as live witnesses at trial because you did not identify either of these persons in your Initial Disclosures, you have refused our request to search and produce their relevant custodial files and e-mail ESI, and you have refused to provide them for Rule 30(b)(1) depositions.

Please let me know if this is workable.

Thank you.

-----Original Message-----

From: Barr, John [mailto:John.Barr@bglip.com]
Sent: Tuesday, October 07, 2014 3:30 PM
To: Josh Budwin; Geiger, Tim; Shield, Chris; Tom Fasone III
Cc: Droplets III Web Retailers; Bradford, Angela
Subject: RE: Droplets III: Outstanding 30(b)(6) Depositions of Sears and Overstock

Josh,

As Chris Shield has previously advised you, in accordance with your representation to the Court at the hearing, these 30(b)(6) witnesses are being provided for a limited purpose pursuant to your request. Therefore, the topics of these depositions will be limited to the topics discussed at the hearing on the record and are not in the witnesses personal capacities and will not include personal ESI. I am not sure what you mean by "back door," but if you take a deposition of a witness, we reserve our right to use the deposition or to call the witness live at trial.

Thanks

John

-----Original Message-----

From: Josh Budwin [mailto:jbudwin@McKoolSmith.com]
Sent: Friday, October 03, 2014 5:26 PM
To: Geiger, Tim; Shield, Chris; Tom Fasone III; Barr, John
Cc: Droplets III Web Retailers; Bradford, Angela

Subject: RE: Droplets III: Outstanding 30(b)(6) Depositions of Sears and Overstock

Hi Tim -

Before we accept these dates, two questions: (1) Have you searched for an produced ESI and other relevant documentation from the custodial files of these two individuals? (2) Since neither of these individuals were listed in your Initial Disclosures, please confirm that if we proceed with their Rule 30(b)(6) depositions you will not use that as a "back door" to designate either of these individuals as trial witnesses.

Please let us know promptly. Thank you.

From: Geiger, Tim [Tim.Geiger@bgllp.com]
Sent: Friday, October 03, 2014 4:42 PM
To: Shield, Chris; Tom Fasone III; Barr, John
Cc: Droplets III Web Retailers; Bradford, Angela
Subject: RE: Droplets III: Outstanding 30(b)(6) Depositions of Sears and Overstock

Tom and Josh;

Sears will provide Meenakshi Nair for deposition on 10/14 and Matt Lifka for deposition on 10/15 to testify on the limited topics identified at the September 18, 2014 hearing. The depositions will be held at Hoffman Estates, Illinois beginning at 9:30 am. Please confirm these dates.

Thanks,
Tim

From: Shield, Chris
Sent: Wednesday, October 01, 2014 1:52 PM
To: Tom Fasone III; Barr, John
Cc: Geiger, Tim; Droplets III Web Retailers; Bradford, Angela
Subject: RE: Droplets III: Outstanding 30(b)(6) Depositions of Sears and Overstock

Tom,

John's in meetings today on another matter, but we can confirm that Seth Moore's deposition for Overstock will take place next Tuesday in Salt Lake City. He will be available from 9am to around 1pm, which should be more than enough time to go over the financial documents, interrogatory response explaining finances, and A/B testing.

We are still confirming the date for Sears' witnesses, but it looks like it will be around October 14-16 based on witness availability. We will have the witnesses and day(s) confirmed by EOD on Friday.

cas

From: Tom Fasone III [mailto:tfasone@McKoolSmith.com]
Sent: Wednesday, October 01, 2014 9:12 AM
To: Barr, John
Cc: Shield, Chris; Geiger, Tim; Droplets III Web Retailers; 'jh@jamesholmeslaw.com'
Subject: RE: Droplets III: Outstanding 30(b)(6) Depositions of Sears and Overstock

John,

Given the numerous and rapidly approaching expert discovery and pretrial submission deadlines in this case and a trial date just shy of four months away, we would appreciate your clients' cooperation by providing the information requested in my email of Monday at 3:04 PM (embedded below) which was sent in connection with Droplets' Second 30(b)(6) Deposition Notices.

Regards,

Tom

From: Tom Fasone III
Sent: Monday, September 29, 2014 4:11 PM
To: 'Barr, John'
Cc: Shield, Chris; Geiger, Tim; Droplets III Web Retailers; 'jh@jamesholmeslaw.com'
Subject: RE: Droplets III: Outstanding 30(b)(6) Depositions of Sears and Overstock

John,

We look forward to putting the depo schedule behind us. Thanks.

Tom

From: Barr, John [mailto:John.Barr@bglp.com]
Sent: Monday, September 29, 2014 3:15 PM
To: Tom Fasone III
Cc: Shield, Chris; Geiger, Tim; Droplets III Web Retailers; 'jh@jamesholmeslaw.com'
Subject: Re: Droplets III: Outstanding 30(b)(6) Depositions of Sears and Overstock

As you know we will be with our client tomorrow. Hopefully we can get it all ironed out then.

From: Tom Fasone III
Sent: Monday, September 29, 2014 3:04 PM
To: Barr, John
Cc: Shield, Chris; Geiger, Tim; Droplets III Web Retailers; 'jh@jamesholmeslaw.com'
Subject: Droplets III: Outstanding 30(b)(6) Depositions of Sears and Overstock

John,

I write concerning the outstanding 30(b)(6) depositions of Sears and Overstock, pursuant to the September 18 discovery hearing before Judge Payne.

We understand that Mr. Seth Moore has been designated as Overstock's corporate representative in response to Droplets' Second 30(b)(6) Notice of Overstock. Please (1) confirm the date for his deposition and (2) confirm that Mr. Moore will be covering all topics set forth in the Second 30(b)(6) Notice.

Sears has not yet identified its witness(es) whom will testify in response to Droplets' Second 30(b)(6) Notice of Sears. Please identify Sears' corporate designee(s) and provide a date and location for the deposition(s) without further delay.

Thank you.

Tom

From: Tom Fasone III
Sent: Saturday, September 27, 2014 9:02 AM
To: 'Barr, John'
Cc: Shield, Chris; Geiger, Tim; Droplets III Web Retailers; jh@jamesholmeslaw.com<mailto:jh@jamesholmeslaw.com>
Subject: Droplets III: Deposition of Seth Moore (Second 30(b)(6) Notice)

John,

Thank you for the head's up.

We also wanted to raise with you the production of Mr. Moore's e-mails, as he is one of the custodians from whom Droplets submitted search terms for purposes of obtaining his relevant, non-privileged e-mails. We kindly ask that the production of Mr. Moore's e-mails be given priority such that they are produced to Droplets reasonably in advance of the date on which Mr. Moore will appear for his deposition. It has been brought to my attention that we received an estimate from your office that Mr. Moore's and Mr. Goyal's combined responsive e-mails were in excess of 250,000 in number. We would greatly appreciate you taking this into consideration when proposing a firm date for Mr. Moore.

Should you care to discuss this matter with me, I am available to do so any time this weekend and certainly on Monday. 214-978-4927.

Regards,

Tom

From: Barr, John [mailto:John.Barr@bglp.com]
Sent: Saturday, September 27, 2014 7:26 AM
To: Tom Fasone III
Cc: Shield, Chris; Geiger, Tim; Droplets III Web Retailers; jh@jamesholmeslaw.com<mailto:jh@jamesholmeslaw.com>
Subject: Re: Droplets III: Court Ordered 30(b)(6) Depositions of Sears and Overstock

Tom,

Let me confirm this date. Not sure 7th is going to work after all for Moore.

John

Sent from my iPad

On Sep 27, 2014, at 5:19 AM, "Tom Fasone III" <tfasone@McKoolSmith.com<mailto:tfasone@McKoolSmith.com>> wrote:

Chris,

Thank you for your response.

We assume that Mr. Moore will cover all topics in Droplets' Second Amended Notice of Deposition. If our understanding is incorrect, then please let us know.

Regards,

Tom

From: Shield, Chris [mailto:Chris.Shield@bgllp.com]

Sent: Friday, September 26, 2014 9:38 PM

To: Tom Fasone III

Cc: Barr, John; Geiger, Tim; Droplets III Web Retailers; jh@jamesholmeslaw.com<mailto:jh@jamesholmeslaw.com>

Subject: RE: Droplets III: Court Ordered 30(b)(6) Depositions of Sears and Overstock

Tom,

We are still confirming dates for Sears witnesses, but Seth Moore of Overstock will be provided on October 7 in Salt lake City starting at 9am at the same location as his first deposition in downtown Salt Lake City.

cas

From: Tom Fasone III [mailto:tfasone@McKoolSmith.com]

Sent: Friday, September 26, 2014 3:37 PM

To: Shield, Chris

Cc: Barr, John; Geiger, Tim; Droplets III Web Retailers; jh@jamesholmeslaw.com<mailto:jh@jamesholmeslaw.com>

Subject: Droplets III: Court Ordered 30(b)(6) Depositions of Sears and Overstock

Chris,

When may we expect witness designations and proposed dates and locations in response to the Court ordered 30(b)(6) depositions of your clients?

Regards,

Tom